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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

pmu
#12
8/19/03

In Re Application of:)	
)	
PHILIP J. LUCAS, et al.)	
)	Attorney Docket: CBC 2001-2
Serial No.: 09/809,678)	
)	Examiner: Jose V. Chen
Filed: March 14, 2001)	
)	Group Art Unit: 3637
For: DISPOSABLE/RECYCLABLE)	
PALLET AND METHOD)	

REPLY BRIEF

Noted
JVC
Commissioner for Patents
Alexandria, VA 22313

Dear Sir:

This Reply Brief is submitted in response to the Examiner's Answer dated 6/10/03.

With reference to Lawson, U.S. Patent No. 3,730,417 (Lawson '417), the Examiner states on page 5 of the Examiner's Answer, "In response to appellant's remarks that the spacers of Lawson are not adhered to either the inner container (46) or to a load inside the inner container (46) and therefore do not act as a 'base' for any load or product inside the inner container (46), note the following. The patent to Lawson at column 5, lines 9-33 state among other things, 'The inner container 46 has formed along their bottom thereof a plurality of flaps 54 and a plurality of bottom flaps 56 which are hingedly attached to the sides 48 and 50 by means of score lines 58.... The spacers 60 are fixedly attached by means of glue or some other suitable fastening means to the bottom flaps 54 and 56.'" However, the

Appellants' Docket No. CBC 2001-2

Examiner took the quoted portions of Lawson '417 out of context and then prematurely ended the quote, thereby changing its intended meaning. In column 5, on lines 28-33, Lawson states as follows (emphasis added, with the portion of the quote deleted by the Examiner in bold type):

"The spacers 60 are fixedly attached by means of glue or some other suitable fastening means to the bottom flaps 54 and 56 which form the bottom of the outer container 12 whenever said outer container is formed into the container shown in FIG. 2."

The following quotes from Lawson '417 clearly show that, as Appellants contend in their Appeal Brief, the spacers (60) are not fixedly attached to the inner container (46) and are instead fixedly attached only to the inside surface of the outer container (12):

"The outer container has a plurality of spacers fixed to the bottom of the container.... Contained within the outer container and resting on top of the plurality of spacers is an inner container...." Lawson '417, Abstract (emphasis added).

"To the basic outer paperboard container is added a plurality of spacers which are fixedly attached to the bottom of the outer container in a spaced relationship.... Into this basic structure is inserted an inner container having formed thereon a plurality of bottom flaps with the flaps being folded inwardly and positioned on top of the spacers...." Lawson '417, column 2, lines 47-55 (emphasis added).

"The spacers 60 are fixedly attached to the bottom of the outer container 12 in a spaced relationship to each other...." Lawson '417, column 5, lines 33-35 (emphasis added).

"In operation the combination pallet/container is formed at the job site by means of rapidly forming the outer container by means well known in the art, placing therein the plurality of spacers and fixedly attaching them to the bottom of the outer container 12. Thereupon the inner container 46 is rapidly set up in the form shown in FIG. 2 and is inserted into the outer container 12 with its bottom flaps 54 and 56 being positioned on top of the spacers 60." Lawson '417, column 5, lines 43-51 (emphasis added).

In view of the above, Appellants maintain that, as argued in Appellants' Appeal Brief, the spacers (60) of Lawson '417 are not adhered to either the inner container (46) or to a load inside the inner container (46) and therefore do not act as a "base" for any load or product placed inside the inner container (46). Instead, it is clear that the spacers (60) of Lawson '417 are adhered only to the inner surface of the outer container (12) and therefore could not possibly be used as a "base" for either the inner container (46) or any product or load placed inside the inner container (46).

Respectfully submitted,

KLAAS, LAW, O'MEARA & MALKIN, P.C.

August 1, 2003



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3637

PTO/SB/21 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/809,678
Filing Date	March 14, 2001
First Named Inventor	Philip J. Lucas et al.
Art Unit	3637
Examiner Name	Jose V. Chen
Attorney Docket Number	CBC 2001-2

Total Number of Pages in This Submission

ENCLOSURES (Check all that apply)

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|--|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form
<input type="checkbox"/> Fee Attached
<input type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement
<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Response to Missing Parts/Incomplete Application
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
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<input type="checkbox"/> Petition
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Remarks

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Nellie C. Kaufman, Esq., Reg. No. 34,689
Signature	<i>Nellie C. Kaufman</i>
Date	August 1, 2003

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FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 0.00

Complete if Known

Application Number 09/809,678
Filing Date March 14, 2001
First Named Inventor Philip J. Lucas et al.
Examiner Name Jose V. Chen
Art Unit 3637
Attorney Docket No. CBC 2001-2

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☒ None

☒ Deposit Account:

Deposit
Account
Number
Deposit
Account
Name

11-1150

KLAAS, LAW, O'MEARA

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments
☒ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 750	2001 375	Utility filing fee	
1002 330	2002 165	Design filing fee	
1003 520	2003 260	Plant filing fee	
1004 750	2004 375	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1)			(\$) 0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims -20** = X =
Independent Claims -3** = X =
Multiple Dependent =

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	2053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 410	2252 205	Extension for reply within second month	
1253 930	2253 465	Extension for reply within third month	
1254 1,450	2254 725	Extension for reply within fourth month	
1255 1,970	2255 985	Extension for reply within fifth month	
1401 320	2401 160	Notice of Appeal	
1402 320	2402 160	Filing a brief in support of an appeal	
1403 280	2403 140	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,300	2453 650	Petition to revive - unintentional	
1501 1,300	2501 650	Utility issue fee (or reissue)	
1502 470	2502 235	Design issue fee	
1503 630	2503 315	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 750	2809 375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 750	2810 375	For each additional invention to be examined (37 CFR 1.129(b))	
1801 750	2801 375	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 0.00

SUBMITTED BY

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(Attorney/Agent)

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Nellie C. Kaufman

Date

August 1, 2003

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